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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,681	07/03/2001	Selim Shlomo Rakib	034704-000041	1753

7590 10/06/2005	EXAMINER
Robert E. Krebs	SHANG, ANNAN Q
Thelen Reid & Priest LLP	
P.O. Box 640640	ART UNIT / PAPER NUMBER
San Jose, CA 95164-0640	2617

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

		Application No.	Applicant(s)
Office Action Summary		09/898,681	RAKIB, SELIM SHLOMO
		Examiner	Art Unit	
		Annan Q. Shang	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>03 July 2001</u>.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-9</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-9</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1. ☐ Certified copies of the priority documents have been received.

   2. ☐ Certified copies of the priority documents have been received in Application No. _____.

   3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date <u>01/13/03</u>.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

2.   Claims 1-2 and 4-9 are rejected under 35 U.S.C. 103(a) as being

unpatentable over **Basso et al (2002/0124262)** in view of **Wilkins (5,446,919)**.

As to claim 1, note the **Basso** reference figures 1-4, discloses network based

video replay server or portal (VR-Server-20) and further discloses a headend

cherrypicker (VR-Server-20) that implements TIVO functions, comprising:

a packet switch (Switch 301, fig. 5 and page 5, [0059]);

a plurality of video servers and satellite feed servers (page 2, [0025], [0028],

[0041] and page 6, [0067]) coupled to supply MPEG packets encoding a plurality of

video programs, note that VR-Server/Portal-20 is located at the HE, and its architecture

includes a farm of RTSP backend of Servers and Satellite receivers (page 5, [0057]);

a hard disk array (STORE/PROXY, page 5, [0056], [0071] and [0073-0075])

storing MPEG packet video data encoding TIVO-like function menus and for storing

MPEG packet video data to record programs for which a customer has requested

recording (page 2, [0033-0034]);

an IP wrapper circuit (Proxy/Storage/Media managers, figs 4-8, page 4, [0055-

0056] and page 5, [0066-0070) functioning to receive the MPEG packets from the

plurality of video servers and the hard disk array and encapslulate them in IP multicast

packets and encapsulate the IP multicast packets in packets IP multicast packets in

LAN packets having station addresses that correspond to the program identifier data

and supplying the LAN packets to the switch (301, fig. 5); note that inter-VR-

Server/Portal-20 can be located in a home or local communities and receive and

communicate services to LAN devices on the network or community having station

address (address an inter-portal or Cable Modem, page 3, [0036-0038]) that correspond

to the program identifier data and supplying to the switch (301, fig. 5)

a cable modem termination system (CMTS, page 3, [0043]) and cable modem for

coupling a hybrid fiber coaxial cable transmission medium (HFC, page 3, [0040] and

[0043]) for transmitting iData (Internet data) and command and control data downstream

to customers and for receiving commands from each customer to order video programs

including recorded programs (page 2, [0033-0034]) or TIVO menus and to control TIVO

functions performed by the personal video recorder servers for that customer;

one or more network cherrypickers (Inter-VR-Server/Portal-20 or Secondary

hubs page 3, [0035-0036] and [0048]) and transmitter (inherent to Multicast or Unicast

Streamers, figs. 7-8, page 6, [0067-0068]) combinations coupled to the switch, each

transmitter coupled to the HFC for transmitting the requested programs, recorded

programs or TIVO menus to one or more customers;

a system control computer (Proxy/Storage/Media managers, figs 4-8, page 4,

[0055-0056] and page 5, [0066-0070]) programmed to exchange data with the switch

(301) and control routing by the switch to receive upstream requests for video programs

and TIVO function commands and assign one or more logical channels (page 4, [0050-0052]) on the HFC to each requested video program, recorded program or menu and to route data encoding requested video programs from one or more of the video servers and recorded programs or TIVO function menus from the hard disk array or one or more personal video recorder (PVR) servers (page 2, [0033-0034], [0053] and page 6, [0071-0075]) and to one or more transcoder servers and to control the one or more transcoder servers with rate shaping commands to alter the data rate of the data to a data rate that matches the available bandwidth to transmit the data to a customer (page 4, [0050-0052]), and control the switch to route the rate shaped data to one or more network cherrypicker and transmitter combination for transmission (Inter-VR-Server/Portal-20 or Secondary Hubs) to the customer that requested the data and route a downstream message to the cable modem (page 4, [0050], note that CMTS instructs CM to tune to a specific frequency) and routing data encoding video programs to be recorded to the hard disk array or one or more PVR-Servers (page 2, [0033-0034], [0053], page 6, [0075-0076]).

Basso fails to explicitly teach routing downstream message to customers of CM, telling the customer on which logical channel the requested data will be arriving.

However, note **Wilkins** reference figures 3-7, discloses a communication system capable of targeting a demographically or psychographically defined audience, which routes messages (col. 11, lines 20-48 and col. 13, lines 7-29) telling the customer on which logical channel the requested data (alternate advertisement based on a user preference or profile) will be arriving.

Therefore it would have been obvious to one of ordinary skill in the art at the time

of the invention to incorporate the teaching of Wilkins into the system of Basso to

transmit downstream messages to indicated to the customer where the requested

program will be transmitted to enable the customers to tune to the appropriate channel

to receive the requested program content accordingly.

As to claim 2, Basso further discloses Web Server 202 coupled to the switch

through an IP wrapper circuit (Proxy/Media/Storage managers) and which outputs to the

IP wrapper circuit IP format packets encapsulated in MPEG packets having a PID which

identifies the source of the IP data, where the system control computer is programmed

to control the switch to use the cable modem termination system and the cable modem

to provide broadband internet access to customers (fig. 3 and page 4, [00523]).

As to claim 4, Basso further discloses a server farm of EPG, mail, etc., for

sending and receiving MPEG packets encapsulating IP data to one or more customers

through one or more customers through one or more IP wrapper circuits and the packet

switch and one or more of the cherrypicker and transmitter combinations, and where the

control computer is programmed to control the switch to facilitate the exchanges of data

with the customers (page 3, [0043-0045], [0057] and page 5, [0066-0068]).

As to claim 5, Basso further discloses where one or more transcoder servers

(page 5, [0057-0061]) coupled to the packet switch (Switch 301) for altering the data

rate of incoming packets in accordance with rate shaping commands and for outputting

to the switch rate shaped data, and where the system control computer (S/M/S

Managers) is programmed to route data encoding requested video programs, TIVO

function menus, or IP data to one or more of the transcoder servers and to control the

one or more transcoder servers with rate shaping commands to alter the data rate of the

data to a data rate that matches the available bandwidth to transmit the data to

customer, and to control the switch to route the rate shaped data to one or more

network cherrypicker and transmitter combinations for transmission to the customer that

requested the data on the assigned logical channel (page 4, [0050-0052])

As to claim 6, the claimed "a headend cherrypicker that implements TIVO

functions, comprising..." contains the same structural elements that were discussed in

the rejection of claim 1.

Claim 7 is met as previously discussed with respect to claim 2.

Claim 8 is met as previously discussed with respect to claim 3.

Claim 9 is met as previously discussed with respect to claim 4.

3.   Claim 3 rejected under 35 U.S.C. 103(a) as being unpatentable over

Basso et al (2002/0124262) in view of **Wilkins (5,446,919)**, and further in view of

Rowe et al (6,792,615).

As to claim 3, Basso as modified by Wilkins, fail to explicitly teach game servers

which output game data in MPEG packets to enable Customers to play games.

However, note Rowe reference discloses method and system for creating and

distributing programming content in MPEG, including game services to users (figs. 1-2

and col. 15, line 27-col. 16, line 3 and col. 27, lines 29-37).

Therefore it would have been obvious to one of ordinary skill in the art to incorporate the teaching of Rowe into the system of Basso as modified by Wilkins to provide additional services, such as interactive games, as an additional enhancement to the television program and further encourage users to play games on TVs.

Conclusion

4.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Vogel (6,785,292) discloses method for detecting radio frequency impairments in a data-over-cable system.

Ellis et al (2003/0149988) disclose client server based interactive television program guide system with remote server recording.

Chelehmal et al (2002/0046406) disclose on-demand data system.

5.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q. Shang** whose telephone number is **571-272-7355**. The examiner can normally be reached on **700am-400pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the **Electronic**

Business Center (EBC) at 866-217-9197 (toll-free).

Annan Q. Shang.

CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600